

REMARKS

The Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

- Group I: Claims 1-7, drawn to a method of treating or preventing a malignancy or hypercholesterolemia, classified in class 424, subclass 736.
- Group II: Claim 8, drawn to a method of nutritionally supplementing a foodstuff, classified in class 424, subclass 736.
- Group III: Claim 9, drawn to a dietary supplement, classified in class 424, subclass 736.
- Group IV: Claim 10, drawn to a method of supplementing a pharmaceutical, classified in class 424, subclass 736.
- Group V: Claims 11 and 14-23, drawn to a compound isolated from cranberry, classified in class 424, subclass 732.
- Group VI: Claim 12, drawn to a compound isolated from cranberry, classified in class 424, subclass 732.
- Group VII: Claim 13, drawn to a composition isolated from cranberry, classified in class 424, subclass 732.

Applicants hereby elect with traverse Group V encompassing claims 11 and 14-23. Further, Applicants also hereby elect species D, specifically, phenolic acid, e.g., cinnamic acid. For the Examiner's convenience an Appendix of the pending claims is attached.

Basis for Traversal

Applicants respectfully traverse the present restriction requirement and request reconsideration insofar as Groups VI and VII be rejoined with Group V (i.e., Applicants request that claims 11-23 be examined together in the instant application.).

As defined by the Examiner, Group V is intended to include claims drawn to "a compound isolated from cranberry". However, the Examiner has grouped claims 12 and 13, which also encompass this same subject matter, separately into groups VI and VII, respectively. Applicants respectfully note that, like the claims of Group V, claims 12

and 13 are drawn to a compound isolated from a cranberry including, specifically, a phenolic acid, which is also specifically recited in the claims of Group V (e.g., claims 11 and 14) (and has even been selected as a species for searching). Therefore, because the compositions encompassed by Groups V-VII are coextensive and overlapping, including the elected species, these groups should be rejoined and are not independent and distinct.

Further, Applicants respectfully submit that examination of the inventions of Groups V-VII together in the present application can be made without serious burden, particularly since the compositions of Group V-VII all fall within the same search class and subclass, namely class 424 and subclass 732. In accordance with M.P.E.P. § 803:

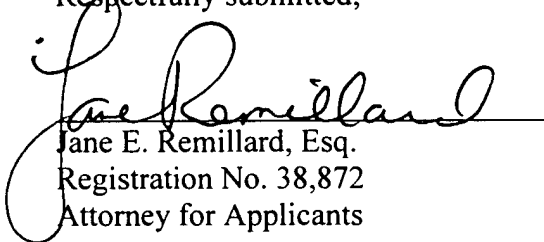
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Thus, for at least the foregoing reasons, Applicants respectfully request that Groups V-VII be rejoined and examined together in the present application.

Conclusion

If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at (617) 227-7400.

Respectfully submitted,


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Appendix of Pending Claims

1. A method for treating or preventing a malignancy or hypercholesterolemia in a subject comprising,
administering to said subject a therapeutically-effective amount of a composition selected from the group consisting of an essence oil isolated from a citrus fruit, a peel oil isolated from a citrus fruit, a peel isolated from a citrus fruit, decharacterized cranberry fruit, and combinations thereof.
2. The method of claim 1, wherein the malignancy is breast cancer.
3. The method of claim 1, wherein the malignancy is metastatic.
4. The method of claim 1, wherein the hypercholesterolemia is measured by altered apoB levels.
5. The method of claim 1, wherein the composition further comprises a compound selected from group comprising fats, carbohydrates, proteins, vitamins, minerals, and combinations thereof.
6. The method of claim 1, wherein the composition is administered orally.
7. The method of claim 1, wherein the citrus fruit is a grapefruit.
8. A method of nutritionally supplementing a foodstuff comprising,
adding to said foodstuff a composition selected from the group consisting of an essence oil isolated from a citrus fruit, a peel oil isolated from a citrus fruit, a peel isolated from a citrus fruit, decharacterized cranberry fruit, and combinations thereof.

9. A dietary supplement comprising, a composition selected from the group consisting of an essence oil isolated from a citrus fruit, a peel oil isolated from a citrus fruit, a peel isolated from a citrus fruit, decharacterized cranberry fruit, and combinations thereof.
10. A method of supplementing a pharmaceutical comprising,
adding to said pharmaceutical a composition selected from the group consisting of an essence oil isolated from a citrus fruit, a peel oil isolated from a citrus fruit, a peel isolated from a citrus fruit, decharacterized cranberry fruit, and combinations thereof.
11. A composition comprising a compound isolated from cranberry and selected from the group consisting of a phenolic acid, flavanoid, fiber, omega-3-fatty acid, tocochromanol, triterpenoid, ellagic acid, and combinations thereof.
12. A composition comprising a compound isolated from cranberry and selected from the group consisting of an anthocyanin, a phenolic acid, a proanthocyanidin, and combinations thereof.
13. A composition isolated from a cranberry having an anthocyanin content which is 30% or greater of that present in the native fruit, a phenolic acid content of 8% or greater of that present in the native fruit, and a proanthocyanidin content of 60% or greater of that present in the native fruit.
14. The composition of claim 11, wherein said phenolic acid is selected from the group consisting of para-coumaric acid, caffeic acid, chlorogenic acid, ferulic acid, protocatechuic acid, cinnamic acid, benzoic acid, gallic acid, para-hydroxybenzoic acid, and combinations thereof.

15. The composition of claim 11, wherein said flavanoid is selected from the group consisting of a proanthocyanidin, flavan-3-ol, anthocyanin, flavanol, and combinations thereof.
16. The composition of claim 15, wherein said proanthocyanidin is selected from the group consisting of a flavan-3-ol polymer, procyanidin B 1, procyanidin B 2, procyanidin B 3, epicatechin oligomer, and combinations thereof.
17. The composition of claim 15, wherein said flavan-3-ol is selected from the group consisting of catechin, catechin gallate, epicatechin, epicatechin gallate, epigallocatechin gallate, gallocatechin gallate, and combinations thereof.
18. The composition of claim 15, wherein said anthocyanin is selected from the group consisting of cyanidin-3-arabinoside, cyanidin-3-galactoside, cyanidin-3-glucoside, peonidin-3-arabinoside, peonidin-3-galactoside, peonidin-3-glucoside, malvidin-3-arabinoside, malvidin-3-glucoside, and combinations thereof.
19. The composition of claim 15, wherein said flavanol is selected from the group consisting of quercetin, q-3-arabinoside (avicularin), q-3-galactoside (hyperin), q-3-glucoside (isoquercitrin), q-3-rhamnoside (quercitrin), myricetin, m-3-arabinoside, m-3-rhamnoside (myricitrin), m-3-digalactoside, kaempferol, isorhamnetin, and combinations thereof.
20. The composition of claim 11, wherein said triterpenoid is ursolic acid.
21. A foodstuff comprising a composition according to claim 11.
22. A dietary supplement comprising a composition according to claim 11.
23. A pharmaceutical comprising a composition according to claim 11.